

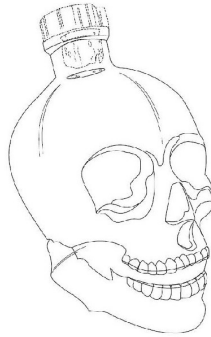
Exhibit A



Exhibit B

United States of America

United States Patent and Trademark Office



Reg. No. 4,043,730

Registered Oct. 25, 2011

Int. Cl.: 33

TRADEMARK

PRINCIPAL REGISTER

GLOBEFILL INCORPORATED (CANADA CORPORATION)
309 ALFRED STREET
KINGSTON, ONTARIO, CANADA K7L3S4

FOR: ALCOHOLIC BEVERAGES, NAMELY, VODKA, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 9-0-2008; IN COMMERCE 9-0-2008.

THE MARK CONSISTS OF A CONFIGURATION OF A BOTTLE IN THE SHAPE OF A SKULL.
THE BOTTLE CAP IS SHOWN IN DOTTED LINES AND IS NOT A PART OF THE MARK.

SER. NO. 77-967,530, FILED 3-24-2010.

SARA BENJAMIN, EXAMINING ATTORNEY



David J. Kyros

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
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Grace Period Filings*

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**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

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Exhibit C

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Acting Register of Copyrights, United States of America

Registration Number
VA 1-766-939

Effective date of
registration:

April 11, 2011

Title

Title of Work: Skull Bottle Packaging

Completion/Publication

Year of Completion: 2007

Date of 1st Publication: September 30, 2008

Nation of 1st Publication: United States

Author

■ Author: Bruni Glass Packaging, Inc.

Author Created: sculpture/3-D artwork

Work made for hire: Yes

Domiciled in: Canada

■ Author: Vetrerie Bruni S.p.A.

Author Created: sculpture/3-D artwork

Work made for hire: Yes

Domiciled in: Italy

Copyright claimant

Copyright Claimant: Globefill Incorporated

366 King Street East, Kingston, K7K 6Y3, Canada

Transfer Statement: By written agreement

Limitation of copyright claim

Material excluded from this claim: Sculpture based on drawings by John Alexander

Rights and Permissions

Organization Name: Baker & Hostetler LLP

Name: John H. Weber

Email: trademarks@bakerlaw.com

Telephone: 202-861-1500

Address: 1050 Connecticut Avenue, N.W.

Suite 1100

Washington, DC 20036 United States

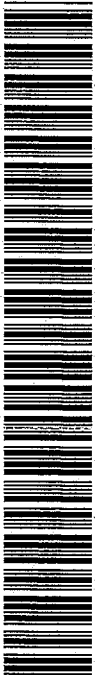
Certification

Name: Kelu L. Sullivan

Date: April 11, 2011

Applicant's Tracking Number: 083108-

Correspondence: Yes



0000VA00017669390201

Exhibit D



US00D589360S

(12) **United States Design Patent**
Alexander

(10) **Patent No.:** **US D589,360 S**

(45) **Date of Patent:** **** Mar. 31, 2009**

(54) **BOTTLE**

D483,905 S * 12/2003 Berounsky D26/126

* cited by examiner

(75) Inventor: **John Alexander**, New York, NY (US)

Primary Examiner—Sandra Morris

(73) Assignee: **Globefill Inc.**, Ontario (CA)

(74) *Attorney, Agent, or Firm*—Baker & Hostetler LLP

(**) Term: **14 Years**

(57) **CLAIM**

(21) Appl. No.: **29/303,016**

The ornamental design for a bottle, as shown and described.

(22) Filed: **Jan. 30, 2008**

DESCRIPTION

(30) **Foreign Application Priority Data**

Feb. 10, 2007 (CA) 122529

FIG. 1 is a left side perspective view of the bottle, particularly showing the inventive design thereof, the skull is transparent, but is not shown for ease of illustration;

(51) **LOC (9) Cl.** **09-01**

FIG. 2 is a front view of the bottle shown in FIG. 1;

(52) **U.S. Cl.** **D9/626**

FIG. 3 is a rear view of the bottle shown in FIG. 1;

(58) **Field of Classification Search** D7/514–517;
D9/600–601, 614, 620, 623–626; D11/128;
D21/658–661

FIG. 4 is a left side view of the bottle shown in FIG. 1, the right side view of the bottle being a mirror image thereof;

See application file for complete search history.

FIG. 5 is a top view of the bottle shown in FIG. 1, the skull is transparent, but is not shown for ease of illustration; and,

(56) **References Cited**

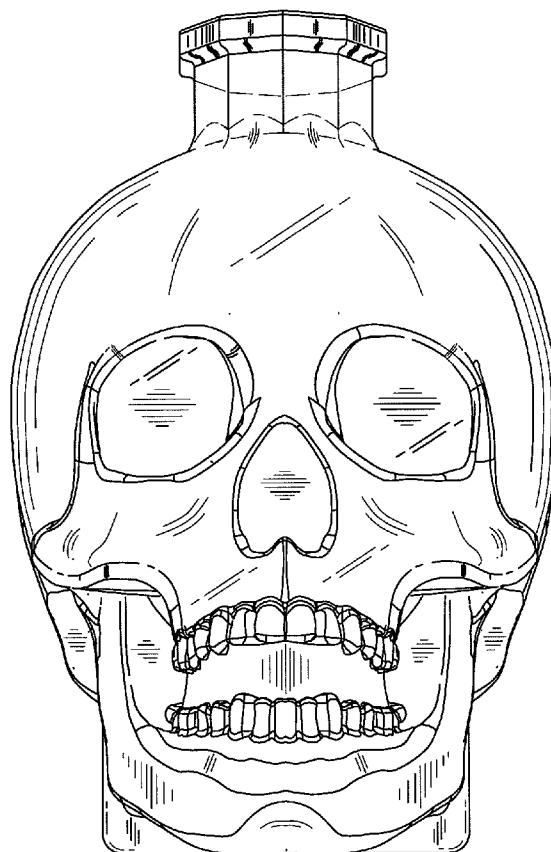
FIG. 6 is a bottom view of the bottle shown in FIG. 1, the skull is transparent, but is not shown for ease of illustration.

U.S. PATENT DOCUMENTS

D23,399 S * 6/1894 Lee D9/626
D420,903 S * 2/2000 Liberty D9/625
D459,213 S * 6/2002 Buboltz et al. D9/626

The broken line showing is for illustrative purposes only and forms no part of the claimed design.

1 Claim, 6 Drawing Sheets



U.S. Patent

Mar. 31, 2009

Sheet 1 of 6

US D589,360 S

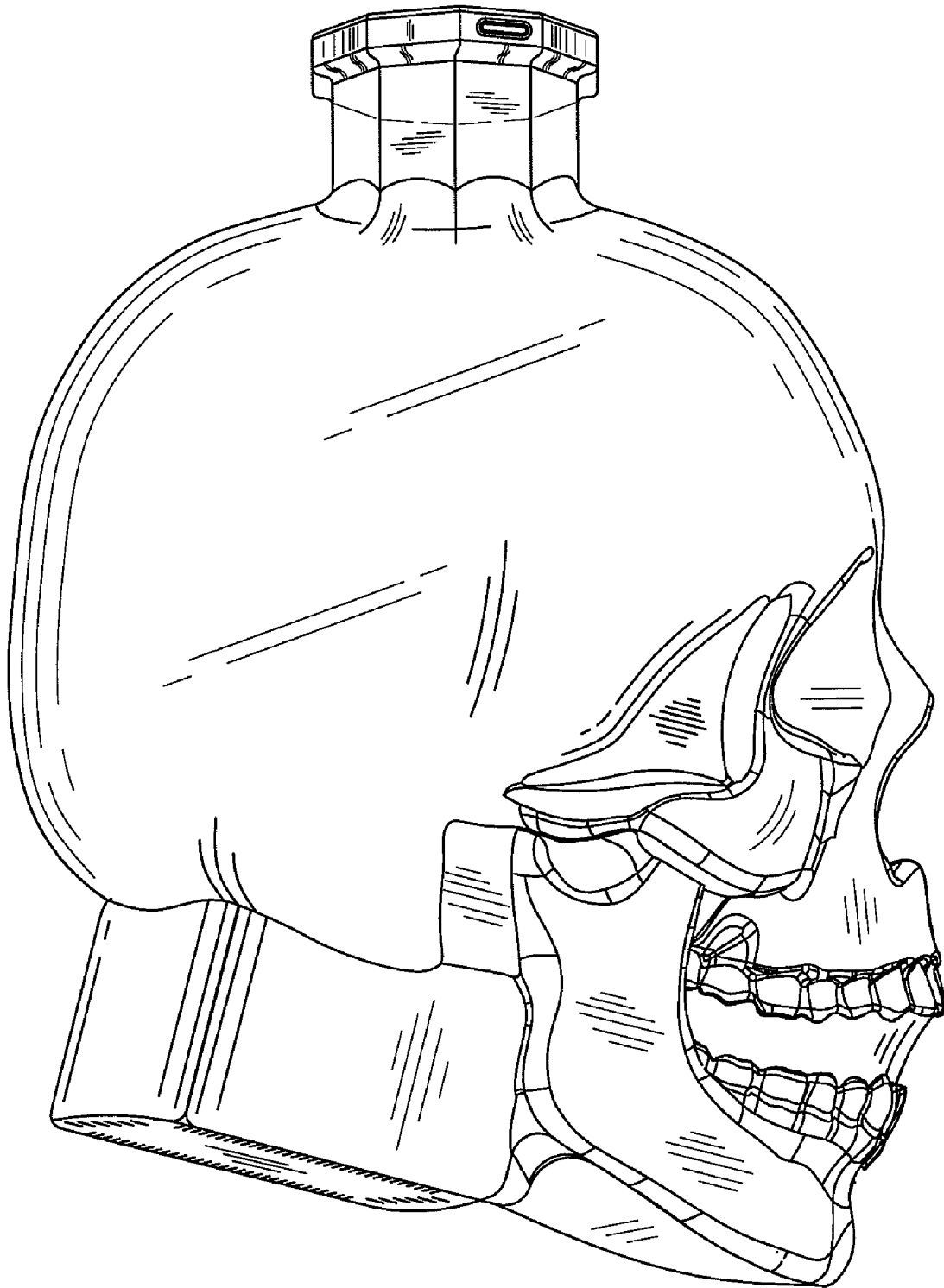


FIG. 1

U.S. Patent

Mar. 31, 2009

Sheet 2 of 6

US D589,360 S

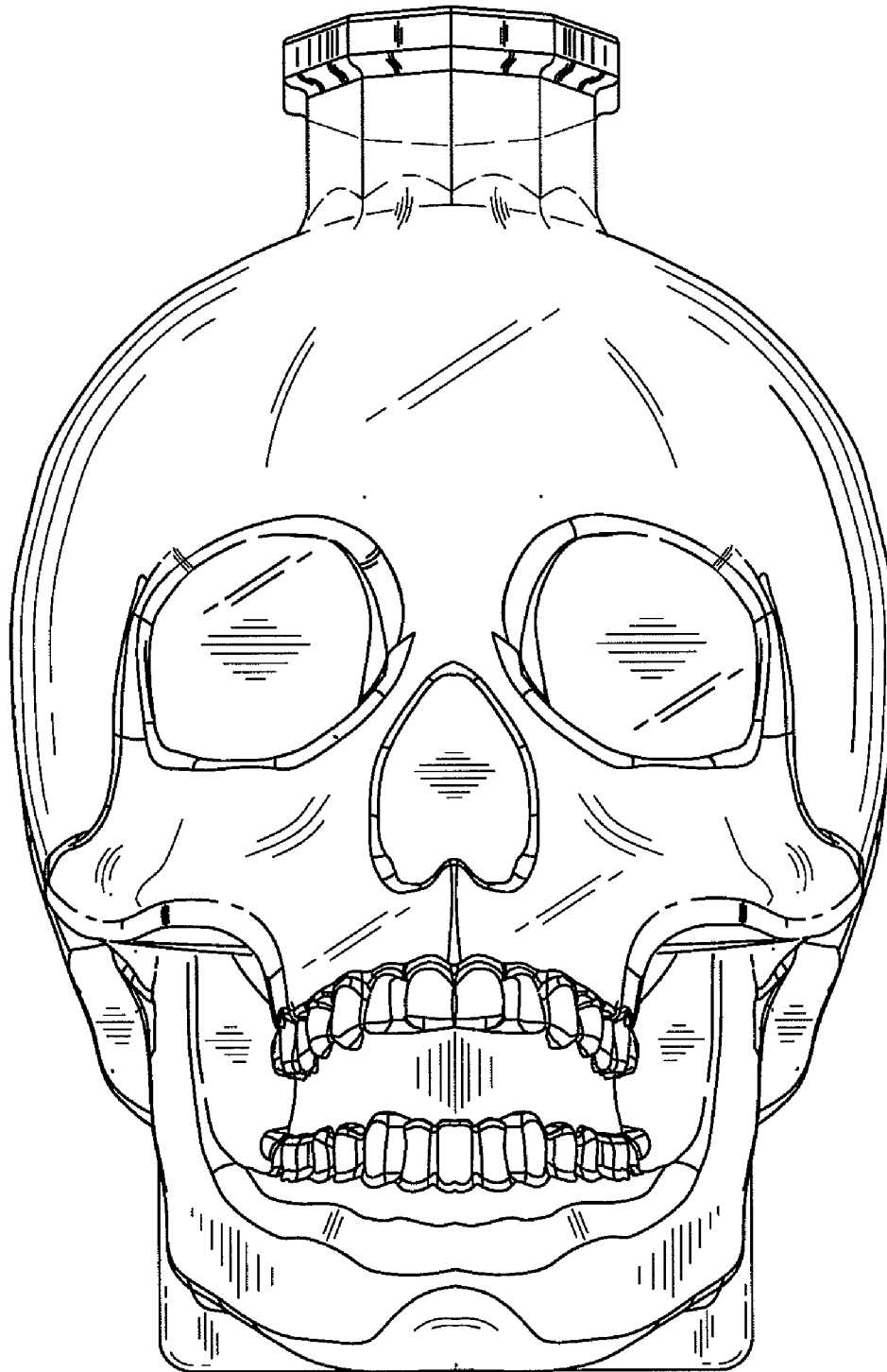


FIG. 2

U.S. Patent

Mar. 31, 2009

Sheet 3 of 6

US D589,360 S

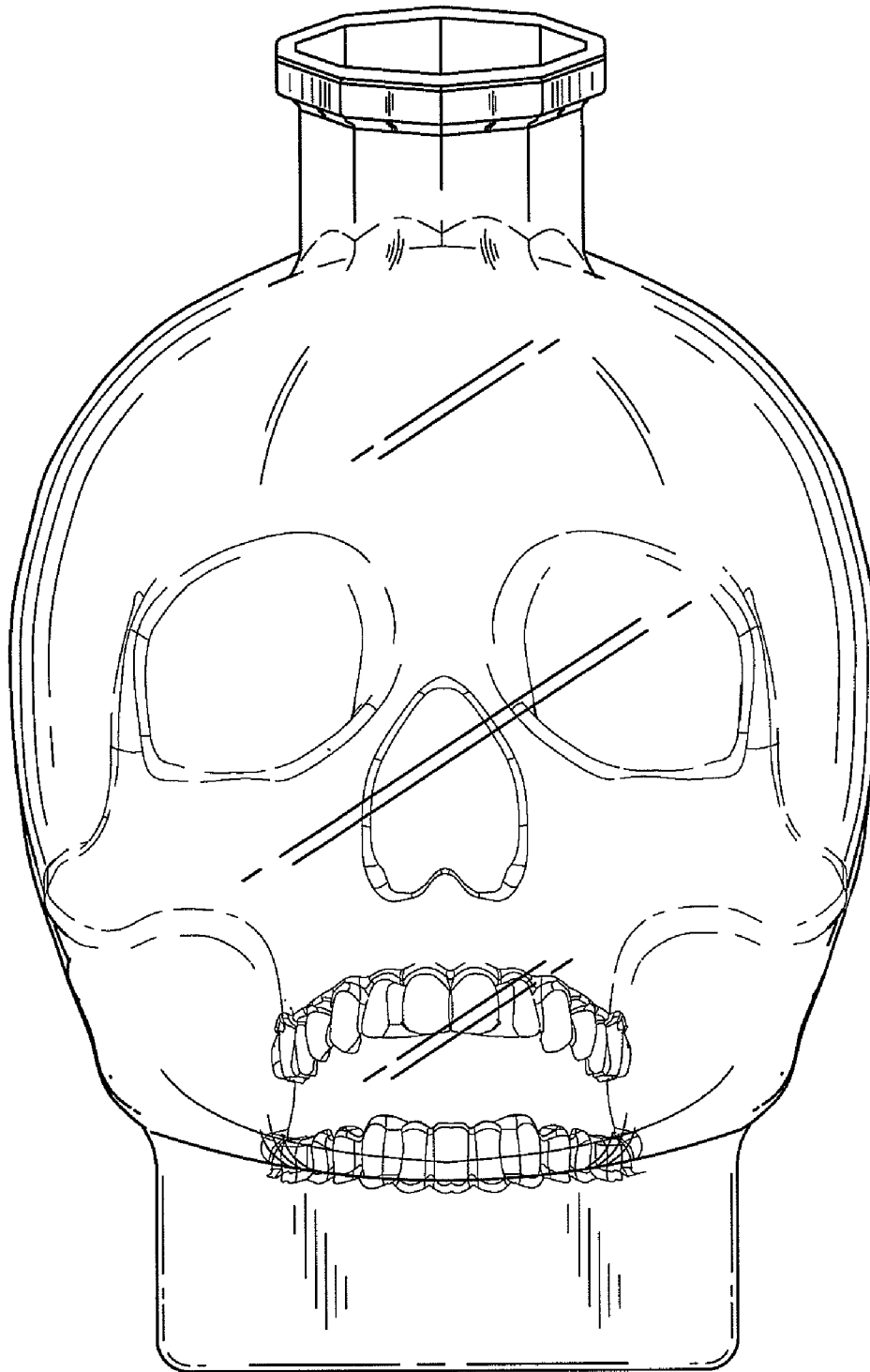


FIG. 3

U.S. Patent

Mar. 31, 2009

Sheet 4 of 6

US D589,360 S

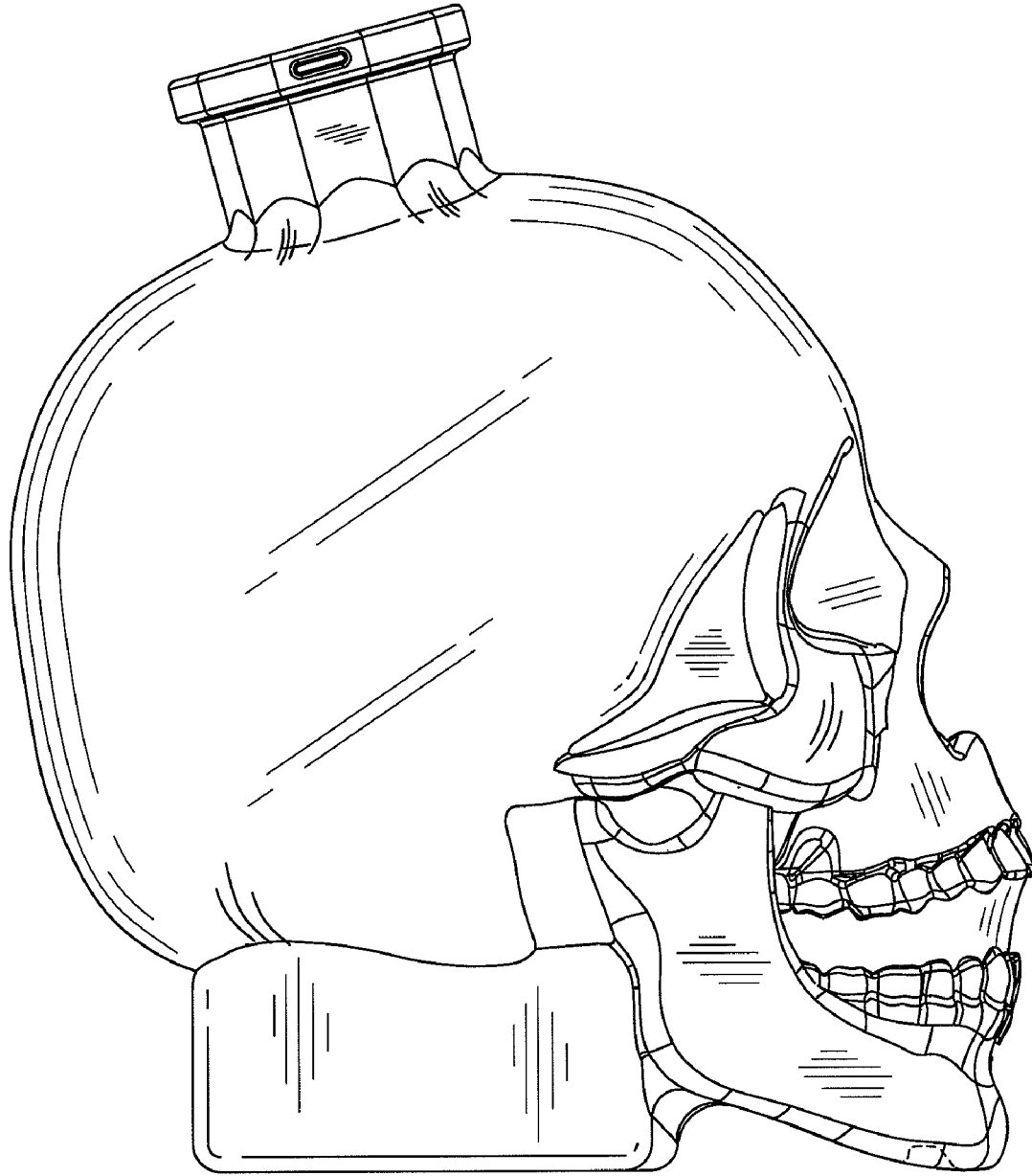


FIG. 4

U.S. Patent

Mar. 31, 2009

Sheet 5 of 6

US D589,360 S

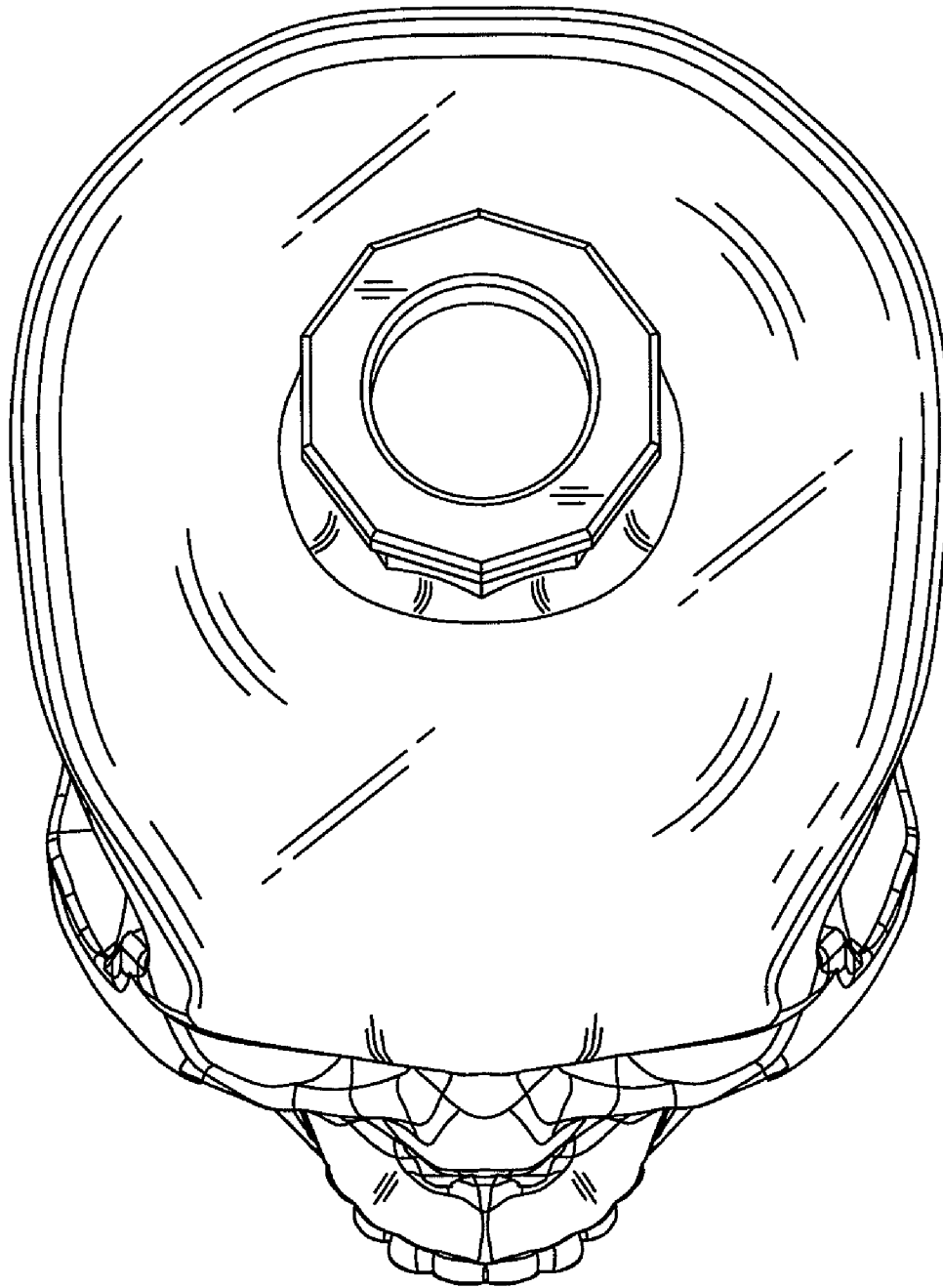


FIG. 5

U.S. Patent

Mar. 31, 2009

Sheet 6 of 6

US D589,360 S

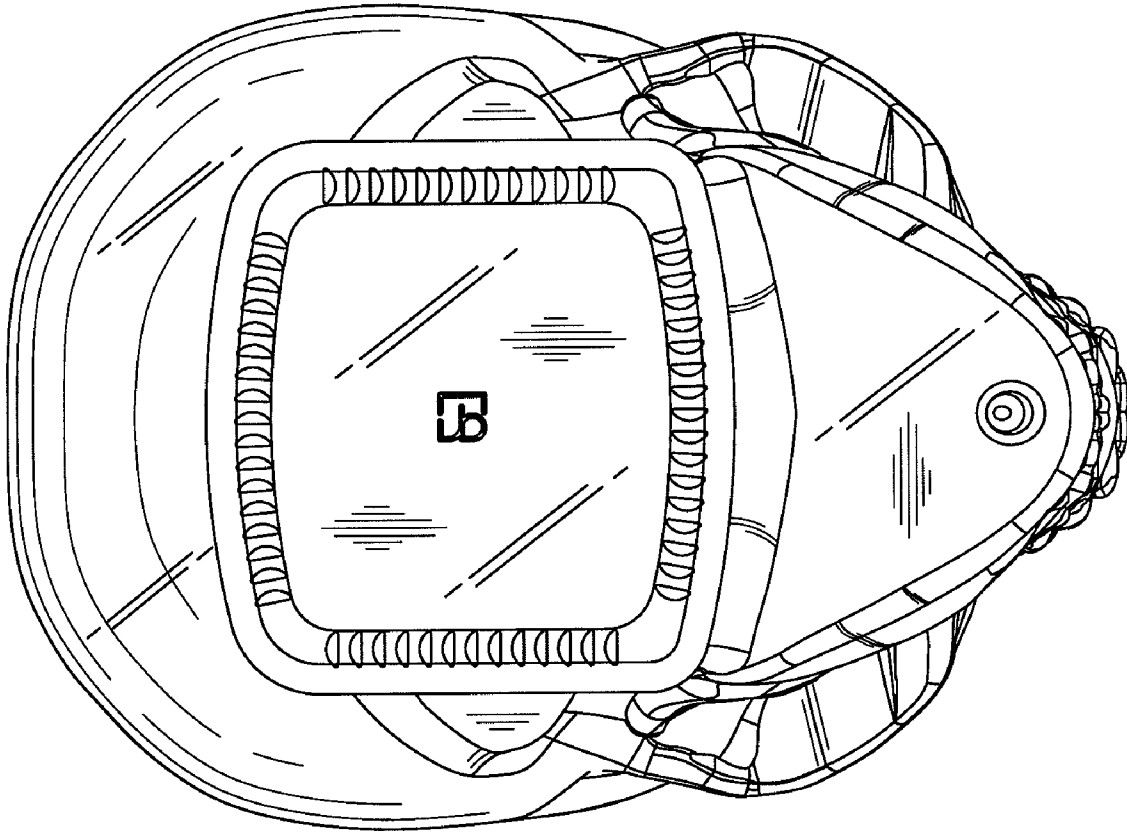



FIG. 6

Exhibit E





sign in / account

my store ▾

weekly ad

gift cards


registries


TargetLists

REDcard ▾

≡ shop all categories

all ▾



 0 in your cart

Target > grocery & essentials > beverages > drink mixes

Glass Skull with Cocktail Mixer: Lime, Strawberry & Bloody Mary 25 oz 3 assorted

see store for price
reg: \$7.99 (save 5%)

quantity:

- +

add to cart

not
sold
online

find in a store

notes

- Prices, promotions, styles and availability may vary by store and online.
- View our return policy.

add to registry

add to list

share



overview guest reviews shipping & returns

recently viewed items

Target stores

find a store

clinic

about Target

company info & press

careers

ways to save

weekly ads

coupons

help

see all help

accessibility

the REDcard

card benefits

how to apply

Exhibit F

BAKER & HOSTETLER LLP
ATTORNEYS AT LAW
LOS ANGELES

1 C. Dennis Loomis, Bar No. 82359
2 BAKER & HOSTETLER LLP
3 11601 Wilshire Boulevard, Suite 1400
4 Los Angeles, California 90025-7120
5 Telephone: (310) 820-8800
6 Facsimile: (310) 820-8859
7 Email: cdloomis@bakerlaw.com
8
9 Attorneys for Plaintiff
10 GLOBEFILL INCORPORATED, a Canadian
11 corporation

2014 SEP 15 PM 3:56
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY: _____

FILED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SACV14-1486DOC (DFMx)

11 GLOBEFILL INCORPORATED, a
12 Canadian corporation,

13 Plaintiff,

14 v.

15 COASTAL COCKTAILS, INC.,

16 Defendant.

Case No.

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF FOR
TRADEMARK INFRINGEMENT
AND UNFAIR COMPETITION**

DEMAND FOR JURY TRIAL

COMPLAINT

17
18 Globefill Incorporated, by its attorneys, as its complaint against Defendant
19 Coastal Cocktails, Inc. ("Defendant"), alleges as follows:

PARTIES AND JURISDICTION

20
21 1. Globefill Incorporated (hereinafter "Globefill"), is a Canadian
22 corporation with its principal place of business at 333 Eglinton Avenue East,
23 Toronto, Ontario, Canada M4P 1L7.

24 2. Upon information and belief, defendant Coastal Cocktails, Inc. is a
25 California company with its principal place of business at 151 Kalmus Drive, Suite
26 H6, Costa Mesa, California 92614.

27 3. This is an action for trademark infringement and for related claims of
28 unfair competition under the Lanham Act, 15 U.S.C. §§ 1114(1) and 1125(a) (as

COMPLAINT FOR DAMAGES AND INJUNCTIVE
RELIEF FOR TRADEMARK INFRINGEMENT

1 amended). This Court has jurisdiction of this action under 28 U.S.C. §1331, 1332,
2 1338 (a)-(b) and 1367(a). Venue is proper in this district under 28 U.S.C. §§ 1391
3 and 1400(a).

4 STATEMENT OF FACTS

5 4. Globefill produces and sells an ultra-premium vodka in bottle
6 packaging in the shape of a skull, as depicted in Exhibit A attached hereto and
7 incorporated herein by this reference.

8 5. Globefill is the owner of the trade dress that consists of “a
9 configuration of a bottle in the shape of a skull” for use in association with
10 “alcoholic beverages, namely vodka” (hereinafter “Skull Bottle Trade Dress”).
11 Globefill registered the Skull Bottle Trade Dress with the United States Patent and
12 Trademark Office under Registration No. 4043730.

13 6. Globefill’s Application to register the Skull Bottle Trade Dress was
14 filed on March 24, 2010 and Registration No. 4043730 was issued by the U.S.
15 Patent and Trademark Office on October 25, 2011. A true and correct copy of
16 Globefill’s Registration Certificate No. 4043730 is attached hereto as Exhibit B and
17 incorporated herein by this reference.

18 7. Pursuant to 15 U.S.C. § 1057, Globefill’s Registration No. 4043730, is
19 *prima facie* evidence of Globefill’s ownership of the Skull Bottle Trade Dress, of
20 the non-functionality and inherent distinctiveness of the Skull Bottle Trade Dress,
21 and of Globefill’s exclusive right to use the Skull Bottle Trade Dress in association
22 with the goods identified therein: “alcoholic beverages, namely vodka.”

23 8. Upon information and belief, Coastal Cocktails advertises, markets,
24 sells and offers for sale, in the United States, a Margarita mix packaged in skull-
25 shaped trade dress, as shown in the true and accurate photographs attached hereto
26 as Exhibit C and incorporated herein by this reference.

FIRST CLAIM FOR RELIEF - FEDERAL TRADEMARK
INFRINGEMENT

9. Globefill repeats, and incorporates herein by this reference, the allegations set forth in paragraphs 1 through 8 hereinabove.

10. Defendant and its Margarita mix is not affiliated, connected or associated with, nor sponsored, authorized, approved or license by Globefill and/or its vodka.

11. Upon information and belief, Defendant adopted and began using skull-shaped trade dress for its Margarita mix without the consent or knowledge of Globefill.

12. Defendant's skull-shaped trade dress is similar to Globefill's federally registered Skull Bottle Trade Dress as both parties' trade dresses consist of skull-shaped bottle packaging for use in association with products consisting of or used in combination with distilled spirits.

13. Upon information and belief, Globefill's Skull Bottle Trade Dress and Defendant's skull-shaped trade dress are confusingly similar and both are used in association with competing and related products that travel in identical channels of trade.

14. Upon information and belief, Defendant's advertising, marketing, offering for sale and sale of a Margarita mix in skull-shaped trade dress is likely to cause relevant consuming public to be confused or mistaken as to whether Defendant or its Margarita mix is affiliated, connected, or associated with, or sponsored, authorized, or approved or licensed by Globefill and/or its vodka.

15. By the acts alleged herein, Defendant has infringed Globefill's federally registered Skull Bottle Trade Dress in violation of Section 32(1) of the Lanham Act (15 U.S.C. §1114(1)). Defendant has thereby caused, is causing and will continue to cause Globefill serious and irreparable damage for which there is

1 no adequate remedy at law, and Defendant's acts will, unless enjoined by this
2 Court, continue to damage Globefill.

3 16. Upon information and belief, the aforesaid acts of trademark
4 infringement have been undertaken with knowledge of Globefill's exclusive rights
5 to the Skull Bottle Trade Dress, and are willful, entitling Globefill to an award of
6 treble damages and attorneys' fees in bringing and maintaining this action, pursuant
7 to Section 35(b) of the Lanham Act, 15 U.S.C. §1117(b).

8 **SECOND CLAIM FOR RELIEF - FEDERAL UNFAIR COMPETITION**

9 17. Globefill repeats, and incorporates here by this reference, the
10 allegations set forth in paragraphs 1 through 8 and 10 through 16 hereinabove.

11 18. Defendant's advertising, marketing, offering for sale and sale of a
12 competitive product used in combination with distilled spirits in a confusingly
13 similar skull-shaped trade dress constitutes unfair competition and false designation
14 of origin that is likely to deceive consumers.

15 19. By the aforesaid acts, Defendant has falsely designated the origin,
16 quality and nature of its goods and business and has falsely described and
17 represented same, causing likelihood of confusion and constituting unfair
18 competition in violation of Section 43(a) of the Lanham Act (15 U.S.C. §1125(a)).
19 Defendant has thereby caused, is causing and will continue to cause Globefill
20 serious and irreparable damage for which there is no adequate remedy at law, and
21 Defendant's acts will, unless enjoined by this court, continue to damage Globefill.

22 20. Upon information and belief, the aforesaid acts of trademark
23 infringement have been undertaken with knowledge of Globefill's exclusive rights
24 to the Skull Bottle Trade Dress, and is willful, entitling Globefill to an award of
25 treble damages and attorneys' fees in bringing and maintaining this action, pursuant
26 to Section 35(b) of the Lanham Act, 15 U.S.C. §1117(b).

27 WHEREFORE, Plaintiff Globefill requests judgment as follows:
28

1 A. That Defendant, along with its officers, agents, servants, employees,
2 attorneys, confederates, and all other persons in active concert or participation with
3 Defendant to whom notice of the injunction is given by personal service or
4 otherwise, be enjoined, at first preliminarily and, thereafter, permanently, from
5 making any use of any colorable imitation of Globefill's Skull Bottle Trade Dress
6 in any manner whatsoever;

7 B. That Defendant be ordered to deliver up to Globefill for destruction all
8 materials comprising, associated with, bearing or packaged in skull-shaped trade
9 dress;

10 C. That Defendant be ordered to recall all goods, advertisements and
11 promotional materials comprising, associated with, bearing or packaged in skull-
12 shaped trade dress from their present locations, including, but not limited to,
13 locations owned by others;


14 D. That Defendant be required to account to Globefill for any and all
15 profits derived by them and to compensate Globefill for all damages sustained by
16 Globefill by reason of the acts complained of herein, and that such damages be
17 trebled;

18 E. That Defendant pay Globefill's attorneys' fees, costs, and
19 disbursements incurred in this action in view of the exceptional nature of this case
20 due to the willful and intentional nature of the unfair competition and false
21 designation of origin in the nature of trade dress infringement; and

22 F. For such other and further relief as the Court deems just and proper.

23 Dated: September 15, 2014

BAKER & HOSTETLER LLP

24 

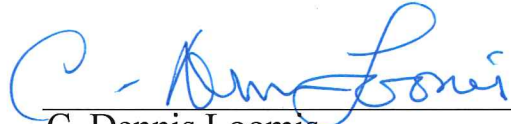
25 C. Dennis Loomis
26 Attorneys for Plaintiff
27 GLOBEFILL INCORPORATED, a
28 Canadian corporation

JURY TRIAL DEMAND

Plaintiff demands a jury trial as to all matters properly so tried.

Dated: September 15, 2014

BAKER & HOSTETLER LLP



C. Dennis Loomis
Attorneys for Plaintiff
GLOBEFILL INCORPORATED, a
Canadian corporation

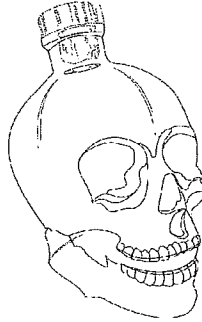
BAKER & HOSTETLER LLP
ATTORNEYS AT LAW
LOS ANGELES



EXHIBIT A

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United States Patent and Trademark Office



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Registered Oct. 25, 2011

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PRINCIPAL REGISTER

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THE BOTTLE CAP IS SHOWN IN DOTTED LINES AND IS NOT A PART OF THE MARK.

SER. NO. 77-967,530, FILED 3-24-2010.

SARA BENJAMIN, EXAMINING ATTORNEY



David J. Kypos

Director of the United States Patent and Trademark Office

EXHIBIT B

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Requirements in Successive Ten-Year Periods*
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EXHIBIT C

Exhibit G



sign in / account

my store ▾

weekly ad

gift cards


registries


TargetLists

REDCard ▾

shop all categories

all ▾



 0 in your cart

Target > grocery & essentials > cookies, chips & snacks > dips & spreads

Skull Bottle Mild Hot Sauce 6 oz 2 assorted

see store for price



quantity:

- +

add to cart

not
sold
online

find in a store

notes

- Prices, promotions, styles and availability may vary by store and online.
- View our return policy.

add to registry

add to list

share

overview guest reviews shipping & returns

popular searches

el pato tomato sauce | old fashioned caramel dip | pineapple peach salsa | pace hot sauce | mexican mild salsa | sabra classic hummus 10 oz |

Exhibit H

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement"), effective from the date upon which it is fully executed ("Effective Date"), is made by and between Globefill Incorporated, a company organized under the laws of Canada, having a place of business at 333 Eglinton Avenue East, Toronto, Ontario, Canada M4P 1L7 (hereinafter referred to as "Globefill") and Coastal Cocktails, Inc., a company organized under the laws of California, having a place of business at 151 Kalmus Drive, Suite H6, Costa Mesa, California 92614 (hereinafter "Coastal");

WHEREAS, Globefill has filed a lawsuit against Coastal, designated Civil Action No. 14-1486 DOC (DFMx) in the United States District Court for the Central District of California, alleging claims for federal trademark infringement and federal unfair competition (hereinafter the "Lawsuit") arising out of Coastal's sale and offer for sale of margarita mix in skull-shaped bottles as depicted in Exhibit A (the "Accused Bottles");

WHEREAS, Coastal denies Globefill's claims and allegations in the Lawsuit;

WHEREAS, Coastal has sold hot sauce in the Accused Bottles, to which Globefill also objects; and

WHEREAS, the parties wish to amicably resolve the dispute between them concerning the facts and the claims alleged in the Lawsuit and concerning Coastal's sale of hot sauce in Accused Bottles;


NOW, THEREFORE, in consideration of the above premises and the promises and agreements set forth herein, along with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, each intending to be legally bound hereby, do represent, promise and agree as follows:

1. Coastal has ceased selling, offering for sale, or shipping, and agrees to continue to refrain from selling, offering for sale, or shipping margarita mix in Accused Bottles anywhere in the world.
2. Coastal represents (i) that it has an inventory of approximately 26,000 units of Accused Bottles, (ii) that it has no pending orders for Accused Bottles, (iii) that it will not place any further orders for Accused Bottles, or cause any additional Accused Bottles to be manufactured, and (iv) that it has confirmed orders for 10,000 units of hot sauce which are to be packaged in Accused Bottles and shipped from China to Europe and Australia in March and April, 2015.
3. Coastal agrees that its inventory of Accused Bottles shall be disposed of as follows:
(i) 10,000 units shall be filled with hot sauce and shipped from China to Europe and Australia in March and April, 2015 to fill its orders, (ii) 10,000 units will be destroyed within fourteen days following the Effective Date, and (iii) the remaining 6,000 units will be filled with hot sauce and sold and shipped to customers in Europe and/or Australia within 180 days following the Effective Date (the "Phase-Out Period"); provided,

however, that if any portion of the 10,000 units mentioned in subparagraph (i), above, or the 6,000 units mentioned in subparagraph (iii), above, are still within Coastal's possession, custody or control on the day the Phase-Out Period expires, they will be destroyed.

4. Contingent upon Coastal's compliance with the terms of this Agreement, Globefill releases and discharges Coastal from any and all known claims, demands, and causes of action in law or in equity, of any kind, arising or existing on or before the Effective Date related to Coastal's sale and offering for sale of margarita mix or hot sauce in Accused Bottles.
5. Contingent upon Coastal's compliance with the terms of this Agreement, Globefill covenants not to assert any further claims, demands, actions or causes of action in law or in equity, of any kind, against Coastal, or any of its officers, directors, agents, representatives, affiliates, manufacturers, suppliers, shippers, importers or customers arising out of or relating to (i) any sales or shipments of margarita mix in Accused Bottles prior to the Effective Date, and/or (ii) any sales or shipments of hot sauce in Accused Bottles prior to the expiration of the Phase-Out Period.
6. Within ten (10) days following the Effective Date of this Agreement, Globefill will dismiss the Lawsuit without prejudice.
7. The parties each agree to bear their own expenses and attorneys' fees incurred in connection with this Agreement and the released claims associated herewith.

Globefill Incorporated


(Signature)
Jonathan Hemi
(Name)
MANAGING PARTNER
(Title)
FEB. 24/15
(Date)

Coastal Cocktails, Inc.



(Signature)
MARK Greenhall
(Name)
President
(Title)
March 2, 2015
(Date)

Exhibit I



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The Modern Gourmet Just Like Fire Hot Sauce, Skull Container, 24.7 FO



Key features

- Collectable Glass Skull Bottle
- Quality Hot sauce

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Description Item # 08793355000P Model # MN-240620-018

Just Like Fire Hot Sauce, Skull Container, 24.7 FO
Collectable Glass Skull Bottle, Quality Hot sauce
Added on October 26, 2016

Just Like Fire Hot Sauce, Skull Container, 24.7 FO
Collectable Glass Skull Bottle, Quality Hot sauce
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advertisement



Specifications

Product Specifications

Dimensions:

Width (in.):	4.72
Depth (in.):	5.91
Height (in.):	7.15

Ratings & Reviews

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Questions & Answers

Our members can help you... Be the first to ask a question about this product.

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